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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,264	11/21/2000	Daryl J. Pocker	SJO990197US1	3418

32112 7590 02/03/2004

INTELLECTUAL PROPERTY LAW OFFICE
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL, CA 95008

EXAMINER

PADGETT, MARIANNE L

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/721,264

Applicant(s)

POCKER ET AL.

Examiner

Marianne L. Padgett

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 27-29.

Claim(s) objected to: _____

Claim(s) rejected: 13-26.

Claim(s) withdrawn from consideration: 1-12.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

MARIANNE PADGETT
PRIMARY EXAMINER

Continuation of 2. NOTE: Weather or not the amendments to claim 13 & 15-16 include new matter need to be further evaluated, as the cited p.10-11 do not specifically provide support for "greater than approximately 50 eV" ion beam energy range for either the 2-step or 3-step (on 3rd energy level) procedures disclosed. There is particularly no suggestion to use an energy that may be between 20 & 50 eV as is included by the proposed claims.

Continuation of 3. Applicant's reply has overcome the following rejection(s): The amendment to the specification would correct the enablement problem as discussed in section 1 of paper mailed 11/7/03; Arguments (p.13) concerning the significance of limitations of claim 27 appear to provide specific differences not specifically discussed by the combined references, especially in that the claimed processes are used particularly on magnetic media. Given these consideration claims 27-29 would appear allowable depending on results of an updated search.

Continuation of 5. does NOT place the application in condition for allowance because: New issues in claim 13 need further consideration & the steps in claim 13 do not restrict the extent of the penetration in a determinable manner; while claim 22 only requires implanting in already deposited DLC, which would have been expected from Falabella's col.5, Ex.3 teachings in combination with Schmid et al as previously discussed. Whether claim 18 thickness necessitate effects as alleged by applicant (p.13) need further consideration & perhaps evidence .